IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 15189 of 2005

Between:

Ch. Pitchaiah, S/o. Guruvaiah,
APSRTC Bus Depot, Suryapet, Nalgonda District.

..... PETITIONER

AND

1 AP State Road Transport Corporation, rep. by its Regional Manager,

Nalgonda.
2 Depot Manager, APSRTC, Suryapet, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ or order or direction, especially one in the nature of Writ of Mandamus; i) declare the impugned proceeding No. P2/2(21)/2004-SRPT dt.27.5.2005 issued by the 2nd respondent as illegal arbitrary and set aside the same. ii) consequently direct the 2nd respondent to reinstate the petitioner into service duly treating the period of suspension as on duty or in the alternative, direct the 1st respondent to conduct a denova enquiry by appointing any other enquiry officer.

Counsel for the Petitioner: MR.K.VASUDEVA REDDY

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the show cause notice issued by the second respondent dated 27-05-2005 proposing to impose a punishment of removal from service and the petitioner was asked to submit his explanation within seven days from the date of receipt of the said show cause notice.

2. According to the petitioner, he was appointed as a Driver. While he was working as such, the vehicle driven by the petitioner met with an accident. As a result of which, the petitioner was charge sheeted after placing him under suspension. Thereafter, an enquiry officer was appointed to conduct enquiry, who submitted his report on 03-05-2005. After receiving the report, the disciplinary authority, instead of giving a show cause notice after providing a copy of the enquiry report to show cause as to the findings of the enquiry officer, had considered the enquiry report and come to a provisional conclusion agreeing with the findings of the enquiry officer. The said action of the respondents is not in accordance with law and therefore, sought to set aside the impugned order.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel.

4. In view of the settled legal position, the disciplinary authority is expected to

issue a show cause notice before considering the findings arrived at by the enquiry officer and it is only after receiving explanation from the delinquent employee to consider the findings of the enquiry officer with reference to the explanation and thereafter to come to a conclusion on the findings. Thereafter, the disciplinary authority can pass appropriate orders with reference to the punishment. But contrary to the said settled legal position, in the present case, the disciplinary authority had considered the enquiry report and come to a provisional conclusion agreeing with the findings of the enquiry officer which is not in accordance with law.

5. Under the above circumstances, without expressing any opinion on merits, the impugned show cause notice dated 27-05-2005 is set aside and the disciplinary authority is directed to issue a show cause notice with reference to the findings arrived at by the enquiry officer after providing a copy of the enquiry report to the petitioner. After receiving explanation with reference to the said show cause notice, it is open to the disciplinary authority to come to a conclusion with reference to the findings after considering the explanation of the petitioner. Thereafter, the disciplinary authority can pass appropriate orders with reference to the punishment.

6. Accordingly, the writ petition is disposed of. No order as to costs.

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S.ANANDA REDDY, J

14th July, 2005

SKM

Copy to:

1 The Regional Manager, AP State Road Transport Corporation,

Nalgonda.

2 Depot Manager, APSRTC, Suryapet, Nalgonda District.

3 Two C.D. Copies.